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U.S. DISTRICT COURT

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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

SUMMIT MOUNTAIN HOLDING GROUP,
L.L.C., a Utah Limited Liability Company,

Plaintiff,

v.

SUMMIT VILLAGE DEVELOPMENT
LENDER 1, LLC, a Delaware Limited
Liability Company; GRAND CANYON
DEVELOPMENT HOLDINGS 3 LLC, an
Arizona Limited Liability Company; and
DOES 1 through 10,

Defendants.

Case No. 1:21-CV-00110-BSJ

**ORDER GRANTING IN PART,
DENYING IN PART, DEFENDANTS'
MOTIONS TO DISMISS AND
REQUEST FOR JUDICIAL NOTICE**

Judge Bruce S. Jenkins

BEFORE THE COURT are two motions—(1) the Motion to Dismiss (ECF No. 16) filed on August 26, 2021, by Defendant Summit Village Development Lender 1 LLC (the “Lender”), and (2) the Motion to Dismiss (ECF No. 18) filed on that same day by Defendant Grand Canyon Development Holdings 3 LLC (the “Additional Lender”) (with the Lender, the “Lenders”)—and a Request for Judicial Notice re: [16] Motion to Dismiss (ECF No. 18) filed by both of the Lenders.

Plaintiff Summit Mountain Holding Group, L.L.C. (“Plaintiff”), filed a Memorandum in Opposition to the Lender’s Motion to Dismiss (ECF No. 20), but in its response to the Additional Lender’s Motion to Dismiss (ECF No. 22), indicated that it did “not oppose the requested dismissal of its third and fourth causes of action against [the Additional Lender], provided the dismissal is without prejudice to Plaintiff’s right to later seek leave to amend its complaint and add specific facts showing [the Additional Lender]’s involvement and attendant causes of action against [the Additional Lender], as discovery in this case unfolds.” ECF No. 22, at 2. Plaintiff also indicated in its response to the Request for Judicial Notice (ECF No. 21) that it did not oppose the request.

On November 4, 2021, at 10:00 AM, the Court held a hearing on the Lenders’ Motions to Dismiss and Request for Judicial Notice. Plaintiff was represented by Spencer Young. The Lenders were represented by Jess Bressi and Eli Milne. Having considered the arguments of the parties in their briefs and at the hearing, the Court NOW ORDERS as follows:

1. The Additional Lender’s Motion to Dismiss (ECF No. 18) is GRANTED IN PART, in that Plaintiff’s third and fourth causes of action against only the Additional Lender are dismissed without prejudice;
2. The Lender’s Motion to Dismiss (ECF No. 16), and the remainder of the Additional Lender’s Motion to Dismiss (ECF No. 18), are DENIED; and
3. The Request for Judicial Notice (ECF No. 17) is GRANTED.

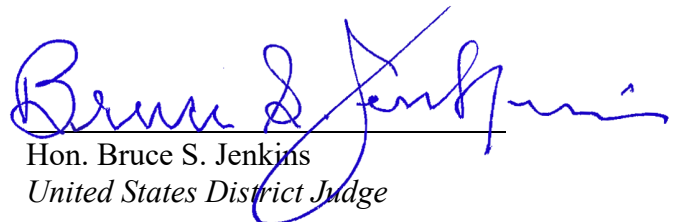
Plaintiff’s first and second causes of action against both of the Lenders, and Plaintiff’s third and fourth causes of action against only the Lender, may proceed.

At the conclusion of the hearing, the Lenders requested 30 days to file their answer, in light of the upcoming Thanksgiving holiday, which Plaintiff indicated on the record at the hearing that

Plaintiff did not oppose. The Court finds good cause for the requested extension. Accordingly, the Lenders shall answer Plaintiff's Complaint (ECF No. 2) on or before December 6, 2021.

IT IS SO ORDERED this 15th day of November, 2021.

BY THE COURT:



Hon. Bruce S. Jenkins
United States District Judge

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the 8th day of November, 2021, a true and correct copy of the foregoing ORDER GRANTING IN PART, DENYING IN PART, DEFENDANTS' MOTIONS TO DISMISS AND REQUEST FOR JUDICIAL NOTICE, as proposed to the Court, was served upon the following by the method respectively indicated below:

Eli Milne	eli.milne@dentons.com	()	U.S. Mail, Postage Prepaid
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Attorneys for Defendants

DATED this 8th day of November, 2021.

STRONG & HANNI

/s/ Spencer W. Young
H. Burt Ringwood
William B. Ingram
Spencer W. Young
Attorneys for Plaintiff